REMARKS

I. INTRODUCTION

Previously pending claims 38, 39, 41-59 and 61-88 have been cancelled, without prejudice. New claims 89-135 have been added. Accordingly, claims 89-135 are now under consideration in the above-referenced application. Provided above, please find a claim listing indicating the cancellation of claims 38, 39, 41-59 and 61-88 and the addition of new claims 89-135 on separate sheets so as to comply with the requirements set forth in 37 C.F.R. § 1.121. It is respectfully submitted that no new matter has been added.

II. REJECTIONS UNDER 35 U.S.C. §§ 102 AND 103(a) SHOULD BE WITHDRAWN

Claims 38, 39, 41-43, 50-59, 61-63, and 70-88 stand finally rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,809,238 issued to Greenblatt et al. (the "Greenblatt Patent"). Claims 44 and 64 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over the Greenblatt Patent, in view of U.S. Patent 6,134,555 issued to Chadha et al. (the "Chadha Patent"). Claims 45-47 and 65-67 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over the Greenblatt Patent, in view of U.S. Patent 5,893,091 issued to Hunt et al. (the "Hunt Patent"). Claims 48, 49, 68 and 69 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over the Greenblatt and Hunt Patents, in view of A. Prasad Sistla et al., "Temporal Conditions and Integrity Constraints in Active Database Systems" (the "Sistla Publication").

As the Examiner shall ascertain, previously pending claims 38, 39, 41-59 and 61-88 have been cancelled above, without prejudice. Accordingly, the respective rejections

of the previously pending claims 38, 39, 41-59 and 61-88 under 35 U.S.C. §§ 102(e) and 103(a) are now moot, and should therefore be withdrawn. In addition, Applicants respectfully submit the Greenblatt Patent, taken alone or in combination with the Chadha Patent, Hunt Patent and/or Sistla Publication, do not teach, suggest or disclose the subject matter recited in new independent claims 89, 108, 127 and 128, and the claims which depend therefrom.

In order for a claim to be rejected as anticipated under 35 U.S.C. § 102(b), each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. Manual of Patent Examining Procedure §2131; *also see Lindeman Machinenfabrik v. Am Hoist and Derrick*, 730 F.2d 1452, 1458 (Fed. Cir. 1984).

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103, not only must the prior art teach or suggest each element of the claim, the prior art must also suggest combining the elements in the manner contemplated by the claim. *See Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir.), *cert. denied* 111 S.Ct. 296 (1990); *see In re Bond*, 910 F.2d 831, 834 (Fed. Cir. 1990). "It is improper to use the inventor's disclosure as a road map for selecting and combining prior art disclosures." *See Grain Processing Corp. v. American Maize-Products Corp.*, 840 F.2d 902, 907 (Fed. Cir. 1988). "[T]he reference must be viewed without the benefit of hindsight afforded to the disclosure." *In re Paulsen*, 30 F.3d 1475, 1482 (Fed.Cir. 1994). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be

found in the prior art, and not based on Applicant' s disclosure. *See In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

As previously described, The Greenblatt Patent relates to data processing techniques (i.e., relational data bases) for collecting and managing data such as techniques for monitoring the performance of computer networks. (See Greenblatt Patent, column 1, lines 13-18). In particular, a computer network 10 of the Greenblatt Patent includes a plurality of user application U1 through U_n which monitor networked platforms P1 through P_n. The computer network 10 also includes a DataServer 14 which may be located on any of the platforms or on a specialized platform which is linked with the networked platforms P1 through P_n by a transport network 12. (See *id.*, column 4, lines 8-11 and 24-28; and Fig. 1). The user applications U1 through U_n collect data from the networked platforms P1 through P_n on the network by issuing (SQL) requests to the DataServer 14, and receive results back from the DataServer 14. As a part of this request for data, the user applications can specify certain requests that collect data on the network. (See *id.*, column 2, lines 28 – 38).

The data returned from the networked platforms P1 through P_n of the Greenblatt Patent can be tested by an Event level probe to determine if the data has changed state from passing to not passing the predicate test or from not passing to passing the predicate test, and inhibiting the return of data that has not changed state. (See *id.*, column 2, lines 45-50). Different expressions as rules are stored in a Rule Table 34 of the DataServer 14. (See *id.*, column 7, lines 9-11). Examples of the rules are provided in Figs. 2-6.

According to the Greenblatt Patent, a probe module 18 of the DataServer 14 continues retrieving data from the heterogeneous data sources P1 through P_n over the transport network 12. (See *id.*, column 5, lines 32-36). This is performed using recursive queries to probe the DataServer 14 with the SQL statement 30 to determine when data meeting the predicate test has been collected and the data to be returned has been collected and is available for return to the requesting user application. (See *id.*, column 7, lines 31-37). Moreover, when the data is returned from the data sources by the probe 18, the filter 36 checks when predicates are satisfied, and returns only the data back to the application satisfying filtered conditions. The determination of whether the monitoring condition has been satisfied is performed by the filter 36 as a part of the DataServer 14, and not on the network 12. (See *id.*, column 10, lines 7-10). In particular, the Greenblatt Patent specifically states that "when DataProbe is initiated or launched, the DataProbe *transfers a request initiating the operation of a data collection application on another platform*, such as a simple subroutine ... and the return of the resultant data to the DataServer platform for return to the user in the form of one or more rows of columnar data." (Id., column 5, lines. 52-62, *emphasis added*).

The Chadha Patent relates to a method, apparatus, and article of manufacture for a computer-implemented random reliability engine for computer-implemented association rule reduction using association rules for data mining application. The data mining is performed by the computer to retrieve data from a data store stored on a data storage device coupled to the computer. The data store has records that have multiple attributes. Attribute value associations are determined between attributes and their values. Attribute associations are determined from the determined attribute value

associations. Attributes are selected based on the determined attribute associations for performing data mining. (See Chadha Patent, Abstract; and column 1, lines 24-26). In particular, RDBMS software 108, SQL queries and instructions derived therefrom may be tangibly embodied in or readable from a computer-readable medium. (See *id.*, column 4, lines 4-6).

The Hunt Patent relates to a system and method for managing and distributing information in the form of alerts that are divided into a keyword-part and an argument-part over a data network. (See Hunt Patent, column 4, lines 38-44). The system and method are based on a server-push model, and deliver user notifications of new information posted by participating content providers (i.e., Timely Information Providers) via IP Multicast. (See *id.*, column 4, lines 44-47). In particular, the Timely Information Server 4 sends the alert over the computer network using the IP Multicast. The alert is received by subscriber clients 8a, 8b, 8c which compare the keywords in the alert to their local keyword profiles 10a, 10b, 10c using a predetermined logical (Boolean) expression, and display the alerts which satisfy the expression. (See *id.*, column 7, line 63 to column 8, line 3).

As described in the Hunt Patent, the Timely Information Providers 2d send information to the Timely Information Server 4, or the Timely Information Server 4 can go out and collect the information from the Timely Information Providers 2d. (See *id.*, column 8, lines 8-12). The Timely Information Server 4 analyses the incoming information, and compares it with its Keyword Dictionary 6 to create an alert, which is sent over the network. (See *id.*, column 8, lines 12-15). The alert is received by the client computer 8d which compares the keywords in the alert to their local keyword profile 10d using the logical

expression. If the criteria of expression is satisfied, the client computer 8d notifies the user of the presence of the alert 12. (See *id.*, column 8, lines 15-20). At the same time the client 8d receives the information from the Timely Information Providers 2d, a tracking information packet is sent 15 to the Timely Information Server 4 specifying that the user/client has acted upon the received alert. (See *id.*, column 8, lines 28-31). According to the Hunt Patent, a Branded Information Server 20 (which post new content on their Internet Servers) sends the alert over the network via the IP Multicast to the client 8a who has subscribed (registered) to receive alerts from a Branded Information Server 18. (See *id.*, column 8, line 52-55).

Alert notification of the Hunt Patent starts with the user initially defining a profile of interest (i.e., a set of keywords and a search expression) through a definition webpage upon the registration with the Timely Information Server 68 for the first time, and a keyword profile file is created on the user's machine. (See *id.*, column 11, lines 36-41). The profile can be updated by accessing the Timely Information Server's profile definition webpage. When alert's keywords match the filtering criteria defined in the user's keyword profile, the client application alerts the user. (See *id.*, column 11, lines 41-46).

A. INDEPENDENT CLAIMS 89 AND 108

Applicants' invention, as recited in new independent claim 89, relates to computer accessible medium including a plurality of executable instructions which, when executed on a first processing arrangement, configure the first processing arrangement to

perform at least one of a monitoring operation or a search operation by performing procedures comprising, *inter alia*:

> receiving a plurality of executable instructions by the first processing arrangement from a second processing arrangement; [and]
>
> **executing at least one of the executable instructions by the first processing arrangement, wherein the execution of the at least one of the executable instructions performs at least one operation which is at least one of the monitoring operation or the search operation** ... .

Applicants' invention, as recited in new independent claim 108, relates to A computer accessible medium including a plurality of executable instructions which, when executed on a first processing arrangement, configure the first processing arrangement to cause a second processing arrangement to perform at least one of a monitoring operation or a search operation by performing procedures, *inter alia*:

> transmitting a plurality of executable instructions from the first processing arrangement from a second processing arrangement; [and]
>
> **causing an execution at least one of the executable instructions by the second processing arrangement, wherein the execution of the at least one of the executable instructions performs at least one operation which is at least one of the monitoring operation or the search operation** ... .

Appellants respectfully assert that the Greenblatt Patent in no way discloses that **the transmission/providing of a plurality of executable instructions from one processing arrangement to another processing arrangement, and the execution of at least one of such executable instruction by such other arrangement, wherein such execution performs a monitoring operation and/or a search operation**, as explicitly recited in new independent claims 89 and 108.

As indicated above, the Greenblatt Patent specifically states that "when DataProbe is initiated or launched, the DataProbe *transfers a request initiating the operation of a data collection application on another platform*, such as a simple subroutine ... and the return of the resultant data to the DataServer platform for return to the user in the form of one or more rows of columnar data." (Greenblatt Patent, column 5, lines 52-62, *emphasis added*). Thus, it is clear that the DataProbe of the Greenblatt Patent transfers a request that initiates the data collection application on another platform - this means that the data collection application of the Greenblatt Patent resides on another platform, and in order to activate it, a request must be transmitted.

As previously argued, the Greenblatt Patent is wholly silent as to the characteristics of the request which is used to initiate the data collection application. Indeed, there is absolutely no indication that the request is executable, much less that it is executed and performs a monitoring operation or a search operation. This "request" of the Greenblatt Patent appears to inform a further platform to execute the data collection application, but is not, in of itself, "executable." Thus, the Greenblatt Patent fails to disclose the transmission/providing of a plurality of **executable instructions** from one processing arrangement to another, the **execution of at least one of the executable instructions** at such receiving processing arrangement, wherein **such execution performs the monitoring operation and/or the search operation**, as clearly recited in independent claims 89 and 108.

Indeed, there is absolutely no reason for the Greenblatt Patent to make its "request:" request executable, since the request's only function is to initiate the data

collection application. At column 6, lines 8-11, the Greenblatt Patent describes that the DataProbe 16 communicates with a networked platform P1 via a transport network 12 to initiate the data collection application (resident within DataProbe 16 or on the networked platform P1) to collect the required data, e.g., which collects the requested data for networked platform P1. However, there is absolutely no disclosure in the Greenblatt Patent of a transmission of any executable instruction to another processing arrangement to perform any monitoring/search operation.

Accordingly, for at least the above described reasons, Applicants respectfully assert that the Greenblatt Patent does not disclose that **the transmission/providing of a plurality of executable instructions from one processing arrangement to another processing arrangement, and the execution of at least one of such executable instruction by such other arrangement, wherein such execution performs a monitoring operation and/or a search operation**, as explicitly recited in new independent claims 89 and 108. The Chadha Patent, Hunt Patent and Sistla Publication do not cure at least these deficiencies of the Greenblatt Patent.

B. INDEPENDENT CLAIM 127

Applicants' invention, as recited in new independent claim 127, relates to computer system to perform at least one of a monitoring operation or a search operation on a network accessible information comprising, *inter alia*:

> at least one computer accessible medium including thereon at least one module, wherein, when a processing arrangement executes the at least one module, the processing arrangement is configured to:

(i) transmit a plurality of executable instructions from at least one first site provided on a network to at least one second site provided on the network,

(ii) **execute at least one of the executable instructions to perform at least one operation which is at least one of the monitoring operation or the search operation on at least one third site on the network** ... .

Appellants respectfully assert that the Greenblatt Patent in no way discloses that **the transmission/providing of a plurality of executable instructions from one processing arrangement to another processing arrangement, the execution of at least one of such executable instruction, wherein such execution performs a monitoring operation and/or a search operation on at least one third site on the network**, as explicitly recited in new independent claim 127.

The reasons as to why the Greenblatt Patent does not disclose the transmission of the executable instructions from one processing arrangement to another, and the execution of at least one of such executable instructions to perform the monitoring operation and/or the search operation have been provided above with reference to new independent claims 89 and 108. These arguments are equally applicable to new independent claim 127 which recites the recitation of the transmission of the executable instructions of one site to another site. In addition, the Greenblatt Patent fails to provide any disclosure regarding the **execution to perform the monitoring operation and/or the search operation on at least one further site on the network**, as also recited in independent claim 127.

C. INDEPENDENT CLAIM 128

Applicants' invention, as recited in new independent claim 128, relates to computer accessible medium including a plurality of executable instructions which, when executed on a first processing arrangement, configure the first processing arrangement to perform at least one of a monitoring operation or a search operation by performing procedures comprising, *inter alia*:

> receiving at least one criterion to be used for execution with a plurality of executable instructions at the first processing arrangement; [and]
>
> **executing at least one of the executable instructions as a function of the at least one criterion by the first processing arrangement, wherein the execution of the at least one of the executable instructions performs at least one operation which is at least one of the monitoring operation or the search operation, and wherein the at least one operation utilizes at least one of a temporal criterion, a reach relation or a conditional probing action** ... .

As an initial matter, Applicants respectfully assert that for similar reasons as provided above with reference to new independent claims 89 and 108, the Greenblatt Patent fails to disclose the receipt of the executable instructions from a first processing arrangement, and the execution of at least one of such executable instructions by such processing arrangement to perform the monitoring operation and/or the search operation.

In addition, the Greenblatt Patent fails to provide any disclosure the above described operation (which is the monitoring operation and/or the search operation) that utilizes a temporal criterion, a reach relation and/or a conditional probing action. The Chadha Patent, Hunt Patent and Sistla Publication do not cure at least these deficiencies of the Greenblatt Patent.

D. SUMMARY

Thus, for at least these reasons, new independent claims 89, 108, 127 and 128 are believed to be allowable over the Greenblatt Patent, taken alone or in combination with the Chadha Patent, Hunt Patent and/or Sistla Publication. In addition, it is believed that various claims which depend from independent claims 89, 108 and 128 are also allowable over any combination of the Greenblatt Patent, the Chadha Patent, Hunt Patent and/or Sistla Publication for at least the same reasons, as well as contain separately patentable subject matter as set forth herein above.

III. CONCLUSION

In light of the foregoing, Applicants respectfully submit that all pending claims 89-135 are in condition for allowance. Prompt consideration, reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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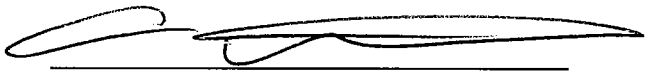

Gary Abelev
Patent Office Reg. No. 40,479

DORSEY & WHITNEY, L.L.P.
250 Park Avenue
New York, New York 10177

Attorney(s) for Applicant(s)
(212) 415-9371

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